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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,954	02/04/2002	David Frederick Lewin	24895B	6057
22889	7590	06/20/2006	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			PICKETT, JOHN G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/066,954	Applicant(s) LEWIN ET AL.	
	Examiner Gregory Pickett	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 15-18 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 04 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment submitted 5 April 2006. Claims 15-18 are pending in the application. Claims 1-14 have been canceled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. In light of the applicant's amendment, the rejection of claims 15-18 under 35 U.S.C. 112, 2nd paragraph is withdrawn.

Claim Rejections - 35 USC § 103

4. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemansson et al (US 4,569,471; hereinafter Ingemansson).

Ingemansson discloses glass strands fed into a muffler outer cylinder **14**. The muffler outer cylinder is considered a container. As the strands are fed, they are blown with a nozzle **9**, causing the threads to blow apart so as to form a wool-like texture (Col. 3, lines 40-44). Accordingly, the filled strand is considered texturized. After the glass strands have been deposited into the outer cylinder, a cover plate is placed over the opening for transport (see Col. 3, line 67 to Col. 4, line 7). Accordingly, the cover plate is considered a closure. Figures 1 and 3 show the fibers as looped/coiled and since the length of the container is a much greater dimension than a strand loop-coil, the deposit

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of the strand will be in multiple layers. The strand of Ingemansson is inherently capable of being removed for subsequent use since Ingemansson lacks any permanent fastening means; the remove-to-use feature is an "intended use" limitation.

Ingemansson does not expressly disclose the density of the glass strand within the container.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the glass strand in the claimed densities because applicant has not disclosed that the specific density provides an advantage, is used for a particular purpose, or solves a stated problem. Absent a showing of unexpected results, one of ordinary skill in the art, would have expected applicant's invention to perform equally well with a large range of densities because the specific density would only be dependent on the amount of glass strand forced into the container.

Therefore, it would have been an obvious matter of design choice to provide the glass strand of Ingemansson in the claimed density to obtain the invention as specified in claim 15. As noted by the applicant on page 8, lines 18-20 of their specification, "[t]he artisan will appreciate that there are many possible variations on the particular embodiment described...that would be consistent with the principles of the invention."

5. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemansson in view of Mattis (US 3,398,877).

As noted above, Ingemansson discloses glass strands fed into a muffler outer cylinder **14**. The muffler outer cylinder is considered a container. As the strands are fed, they are blown with a nozzle **9**, causing the threads to blow apart so as to form a wool-like texture (Col. 3, lines 40-44). Accordingly, the filled strand is considered texturized. After the glass strands have been deposited into the outer cylinder, a cover plate is placed over the opening for transport (see Col. 3, line 67 to Col. 4, line 7). Accordingly, the cover plate is considered a closure. However, Ingemansson also suggests that the glass fibers may be directly blown into a package (Col. 4, lines 35-39) for any purpose whatsoever.

Mattis discloses a container for strand that has a closure (flaps of Figures 2 and 3) that is removable by cutting the sealing tape, and is used to provide a suitable package for the purpose of storing and transporting strand (see for example, the Abstract). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the glass fibers of Ingemansson in a package as taught by Mattis for the storage and transport of the strands. As presented above, Ingemansson teaches looped/coiled and layered glass strand.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the glass strand in the claimed densities because applicant has not disclosed that the specific density provides an advantage, is used for a particular purpose, or solves a stated problem. Absent a showing of unexpected results, one of ordinary skill in the art, would have expected applicant's invention to perform equally well with a large range of densities because the

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specific density would only be dependent on the amount of glass strand forced into the container.

Therefore, it would have been an obvious matter of design choice to provide the glass strand of Ingemansson-Mattis in the claimed density to obtain the invention as specified in claim 15.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemansson-Mattis as applied to claim 15 above, and further in view of Galanes (US 3,670,949).

Ingemansson-Mattis discloses the claimed invention except for the corrugated material. Galanes discloses that corrugated cardboard was a suitable material for cartons for improved wall strength (see Col. 4, lines 55-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Ingemansson-Mattis in a corrugated material in order to improve the wall strength of the container. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

7. Applicant's arguments filed 5 April 2006 have been fully considered but they are not persuasive.

8. In response to the applicant's arguments that Ingemansson does not disclose a removable closure, it is noted that Ingemansson discloses that after the glass strands have been deposited into the outer cylinder, a cover plate is placed over the opening for transport (see Col. 3, line 67 to Col. 4, line 7). Accordingly, the cover plate is considered a closure.

9. In response to the applicant's arguments that Ingemansson does not disclose withdrawal and subsequent use of the strand, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The strand of Ingemansson is inherently capable of being removed for subsequent use since Ingemansson lacks any permanent fastening means; the remove-to-use feature is an "intended use" limitation.

10. In response to applicant's argument that Mattis uses crimped fibers of a differing density, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Ingemansson is the primary reference and Ingemansson

discloses texturized glass strand. The specific density of the strand within the receptacle is considered an obvious matter of design choice since the applicant has not disclosed that the specific density provides an advantage, is used for a particular purpose, or solves a stated problem.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

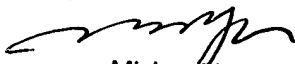
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Greg Pickett
Examiner
8 June 2006


Mickey Yu
Supervisory Patent Examiner
Group 3700